

### REMARKS

After entry of this amendment, Claims 1-2 and 4-9 are pending. Claims 1, 8 and 9 have been amended as discussed in the interview. Applicant respectfully directs the Examiner's attention to the specification, page 1, lines 19-21, which states that "[t]he term 'cancer' means tumors or neoplasms, including malignant neoplasms, characterized by uncontrolled growth." These terms, cancer and neoplasms, are synonymous, thus, no new matter has been added by these amendments, and none of the scope of the claims or equivalents thereof have been effected by this amendment.

Based on the following remarks, Applicant respectfully requests reconsideration and allowance of the pending claims.

#### Rejection of Claims 1, 2 and 4-9 under 35 U.S.C. §103(a)

The Examiner rejected Claims 1, 2 and 4-9 under 35 U.S.C. § 103(a) as being unpatentable over Watkins, Jr. *et al.* (*Int. J. Cancer*: 14, 799-807 (1974)) taken with U.S. Patent No. 3,792,159 to Green *et al.* Applicant respectfully traverses this rejection and requests withdrawal thereof.

As discussed in the interview, Watkins, Jr. *et al.* does not teach *in vivo* administration of neuraminidase. As discussed in the interview, Watkins, Jr. *et al.* teaches that the results of the experiments are not due to neuraminidase attached to the treated cells. For example, see p. 805, second column, second full paragraph, "These observations appear to exclude a neo-antigenic action of exogenous surface-bound neuraminidase in our experiments", and at p. 806, "...we have been unable to elute detectable amounts of neuraminidase from tumor cells treated by our method of processing and washing." The Declaration of Dr. Ellis Kline is submitted to show that one skilled in the art, reading the Watkins, Jr. *et al.* reference, would not find a suggestion or teaching of administering a composition comprising neuraminidase to humans or animals with cancer.

As stated by the Examiner, Green "was cited as a general teaching to show the wide use of phenol saline as a solution for injection of biological materials into the body", and as such, does not, in combination with Watkins, Jr. *et al.* result in a teaching that renders the currently pending claims obvious. Applicant respectfully requests the Examiner to withdraw the rejection.



## MARKED COPY OF AMENDMENTS

### Amendments in the Claims

In accordance with 37 C.F.R. § 1.121(c), the following version of the claims as rewritten by the foregoing amendment shows all the changes made relative to the previous version of the claim. Deletions are shown in [brackets] and additions are underlined.

1. (Twice Amended) A method for treating a human with [a neoplasm] cancer, comprising administering to the human with [the neoplasm] cancer a composition comprising an effective amount of neuraminidase.

8. (Amended) The method of Claim 1, wherein [the neoplasm] cancer is a solid tumor.

9. (Amended) The method of Claim 8, wherein [the neoplasm] cancer is prostate cancer, pancreatic cancer, melanoma, breast cancer, colon cancer, lymphoma, esophageal cancer, lung cancer, testicular cancer, or brain cancer.



### CONCLUSION

The foregoing is submitted as a Submission with a Request for Continued Examination and is responsive to the Advisory Action mailed September 19, 2002 and the Office Action mailed June 20, 2002. Applicant respectfully submits that the present application is in condition for immediate allowance. An early notification is earnestly solicited. If the Examiner has any questions, or further issues remain to be resolved, the Examiner is requested to contact the undersigned at (404) 745-2426 prior to the issuance of any final office action.

A check in the amount of \$370.00 for the Request for Continued Examination, and a Petition and a check for \$200 for the fee for a two month Extension of Time are enclosed. No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mary Anthony Merchant', written over a horizontal line.

Mary Anthony Merchant, Ph.D.  
Reg. No. 39,771

KILPATRICK STOCKTON LLP  
Suite 2800, 1100 Peachtree Street  
Atlanta, Georgia 30309-4530  
(404) 815-6500

Attorney Docket No. 13395-0101 (44448/256971)